UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,122	05/15/2001	Steven Bruce Katz	021756-050600US	1464

20350   7590   01/12/2009

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EXAMINER
BOSWELL, BETH V

ART UNIT	PAPER NUMBER
3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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	Application No.	Applicant(s)
Office Action Summary	09/858,122	KATZ ET AL.
	Examiner	Art Unit	
	Beth V. Boswell	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *17 September 2008*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-229* is/are pending in the application.
  4a) Of the above claim(s) *1-139 and 187-229* is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *140-186* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  a)☐ All b)☐ Some * c)☐ None of:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

1.   The following is a non-final Office action in response to communications received

09/17/2008. Claim 140 has been amended. Claims 140-186 are pending.

Response to Amendment

2.   Applicant's amendment to claim 140 is sufficient to overcome the claim objections set

forth in the previous office action.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

4.   Claims 140-186 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Based on Supreme Court precedent and recent Federal Circuit decisions, for a method or

process claim to be considered statutory, the claim must be tied to a particular machine or

apparatus or transform an article. See Benson, 409 U.S. at 70. The use of the specific machine

or apparatus or the transformation of the article most impose meaningful limits on the claim's

scope to impart patent-eligibility. See Benson, 409 U.S. at 71-72. Second, the involvement of

the machine or transformation in the claimed process must not merely be insignificant post-

solution activity. See Flook, 437 U.S. at 590.

With regards to claim 140, claim 140 recites "a method implemented on a computer

system via a plurality of software modules" in the preamble. However, mere recitation in the

preamble does not impose an actual, structural limitation in the body of the claim and thus does

not sufficiently tie at least one of the steps in the body of the claim to a particular machine or

apparatus. Examiner further notes that the system of the preamble is a computer system with a

plurality of modules and thus may be software per se.

The body of claim 140 recites the use of software modules and data marts in the method.

However, software modules and data marts are not particular machines. Thus it is respectfully

submitted that claim 140 is not a particular machine or apparatus or transform an article.

Claims 141-186 depend from claim 140 and contain the same deficiencies as set forth

above.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6.   Claims 149, 154, 161, and 175-181 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Claim 149 recites the limitation "the module layer". There is insufficient antecedent

basis for this limitation in the claim. For examination purposes, this limitation has been

construed as a module layer. Clarification is required.

Claim 154 recites "wherein the generating at least one alert for the user may be executed

automatically". It is unclear as to what the scope of limitation is as it is unclear whether the

limitation is executed automatically or by some other means. Clarification is required.

Claim 161 also recite "may be" language in the limitation "alerts may be specified". It is unclear as to what the scope of limitation is as it is unclear whether the limitation is specified or not. Clarification is required.

As per claims 174 and 175, claim 174 and 175 recites the limitation "the steps of the workflow process". There is insufficient antecedent basis for this limitation in the claim. Claim 140 recites in the preamble "a method [...] *for managing a workflow process,* **the method assisting** a user with procurement decisions, sourcing decisions and strategic sourcing decisions in an enterprise regarding one or a plurality of items, **and comprising the steps of**". Therefore, the preamble sets forth that **the method comprises the steps** found in the body of the claim and that the intended use of the method is managing a workflow process. Thus, it is not clear what the steps of the workflow process are – are they different then the method steps, some of the method steps, all of the method steps? Clarification is required.

Claims 176-178 depend from claim 175 and contain the same deficiencies set forth above.

Claim 179 recites "the workflow process" in the context of steps the internal and external data resulting from one or more previous actions and/or steps in the workflow process. However, it is unclear what the scope of this claim is as the term workflow process appears in the preamble of claim 140 as an intended use (with no specific tie to the body of the claim), as discussed above with respect to claim 175, and thus it is unclear how the internal and external data is related to an/or results from previous actions and/or steps in the workflow process. Clarification is required.

Claims 180-181 depend from claim 179 and contain the same deficiencies set forth

above.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   Claims 140-186 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox et al.

(U.S. 5,491,629).

As per claim 140, Fox et al. discloses a method implemented on a computer system via a

plurality of software modules for managing a workflow process, the method assisting a user with

procurement decisions, sourcing decisions and strategic sourcing decisions in an enterprise

regarding one or a plurality of items, and comprising the steps of:

discovering, via one or more of the software modules, internal and external data related to

at least one item based on user-defined parameters, wherein the discovered internal and external

data is extracted from a plurality of data sources internal and external to the enterprise (col. 6,

lines 10-19 and 33-40; Figure 5; A computer system uses internal and external data to determine

an impact on the retail industry. The internal and external data is used to revise a managerial

plan (i.e., make strategic decisions).);

storing the discovered internal and external data in a data mart (item 120 in Figure 1);

identifying, via one or more of the software modules, one or more conditions related to

the at least one item or related to procurement, sourcing, and strategic sourcing in the enterprise

of the at least one item (col. 11, lines 51-58; col. 14, lines 52-63; A correlation processor is used

to identify conditions (i.e., change in weather, sales, etc.) associated with deweatherized data.

The conditions are deviations from the baseline that is created, where the deviations are used to

revise the managerial plan.);

analyzing, via one or more of the software modules, the discovered internal and external

data, wherein an assessment is made of the impact or potential impact of the discovered internal

and external data on procurement decisions, sourcing decisions and strategic sourcing decisions

in the enterprise with respect to the at least one item (col. 12, lines 1-9; col. 14, lines 53-56;

Analysis of the potential impact is made.);

recommending to the user, via one or more of the software modules, one or more

proposed actions with respect to the procurement, sourcing or strategic sourcing of the at least

one item on behalf of the enterprise based on the analysis of the discovered internal and external

data (col. 8, lines 25-37; col. 18, lines 60-67; Figure 7; A revised managerial plan is generated in

response to the analysis of the potential impact, where the revised managerial plan includes

new/altered (i.e., recommended) actions to the original managerial plan. Examples of a

managerial plan are product buying, product distribution and labor scheduling. Applicant admits

that Fox et al. discloses recommending one or more new/altered managerial plans on page 43 of

the Remarks filed April 11, 2008.); and

providing to the user, via one or more of the software modules, one or more computers-

initiated options for fully or partially executing an action in the one or more proposed actions

(col. 10, line 56-col. 11, line 4; Figure 6; The workstation may be used to execute different portions of the managerial plan such as the buying, distributing or advertising.).

Fox et al. does not expressly disclose if at least one of the one or more conditions is satisfied, generating, via one or more of the software modules, at least one alert for the user. Examiner takes Official Notice that it is old and well known in workflow management processes to alert users of certain conditions in order to make the user aware of certain conditions happening during a workflow process so that the user can take certain actions at that time if necessary. It would have been obvious at the time of the invention to a person of ordinary skill in the art to modify Fox et al. to alert a user of a satisfied condition so that the user is made aware of a certain threshold being crossed and is able to take certain actions regarding the condition, if necessary, thereby providing the user with instant feedback regarding the status of things.

Fox et al. does not expressly disclose wherein the assessment is based, at least in part, on one or more user-defined parameters that qualify the internal or external data. However, Fox et al. does disclose identifying how products are impacted by weather (cold weather versus hot weather), the degree of impact and the most favorable timing for advertising campaigns (col. 6, lines 51-58). In order for the weather impact model to be able to identify the degree of impact and the most favorable timing for advertising campaigns, user-defined parameters must be utilized, as the weather impact model itself would not know how to identify favorable or unfavorable degrees (i.e., thresholds) without a user specifying such degrees within the model. Thus, Examiner takes Official Notice that it is old and well known in the art of weather modeling for users to define parameters for the model to use in order to assess data effectively. At the time

of the invention, it would have been obvious to a person of ordinary skill in the art to modify Fox

et al. to assess impact based, at least in part, on one or more user-defined parameters that qualify

the internal or external data because the weather impact model needs user-defined parameters

(like thresholds for favorable and unfavorable degrees of impact) in order to function properly

and provide the user with helpful data and analyses.

As per claim 141, Fox et al. discloses the method of claim 140, wherein the discovered

internal and external data stored in the data mart is organized for querying and report generation,

and represented to the user in a plurality of formats (col. 6, lines 47-50; col. 8, lines 15-20; The

data from the internal and external sources is queried and used to generate deweatherized

managerial plans, which are provided via graphical reports.).

As per claim 142, Fox et al. discloses the method of claim 140, further comprising the

step of producing, via one or more of the software modules, one or more reports based on the

analysis of the discovered internal and external data, wherein the one or more reports provide the

user with information regarding the impact or potential impact of the discovered internal and

external data on procurement decisions, sourcing decisions and strategic sourcing decisions in

the enterprise with respect to the at least one item, wherein the reports include information

represented and/or displayed in graphical formats (col. 6, lines 47-50; col. 7, lines 11-14).

As per claim 143, Fox et al. discloses the method of claim 142, wherein the graphical

formats of the information include tables, charts, graphs, and/or maps (col. 6, lines 47-50; col. 7,

lines 11-14).

As per claim 144, Fox et al. discloses the method of claim 140, further comprising the

step of producing, via one or more of the software modules, one or more reports based on the

analysis of the discovered internal and external data, wherein the one or more reports provide the user with information regarding the impact or potential impact of the discovered internal and external data on procurement decisions, sourcing decisions and strategic sourcing decisions in the enterprise with respect to the at least one item, wherein the reports include information represented and/or displayed in non-graphical formats (col. 6, lines 47-50; The predictive model showing the weather impact is provided via a report, or non-graphical format.).

As per claim 145, Fox et al. discloses the method of claim 144, wherein the non-graphical formats of the information include news bulletins, alert boxes, and audio messages (col. 6, lines 47-50; The predictive model showing the weather impact is provided via a report, or non-graphical format.).

As per claim 146, Fox et al. discloses the method of claim 140, wherein functionalities of the workflow process are accessed by the user through one or more software modules with a user interface (col. 6, lines 47-50).

As per claim 147, Fox et al. discloses the method of claim 146, wherein the user may select one or more software modules and enter the workflow process at any point in the process, wherein the user may have control of the functionalities of the workflow process (col. 8, lines 25-37; The user may modify the managerial plan, which is a workflow process.).

As per claim 148, Fox et al. discloses the method of claim 146, wherein the user may select one or more software modules to follow the workflow process, wherein the user is guided through the functionalities of the workflow process (col. 8, lines 25-37; The user may modify the managerial plan, which is a workflow process. In accessing the managerial plan, the user has access to the functionalities of the workflow process.).

As per claim 150, Fox et al. discloses the method of claim 140, wherein the step of discovering internal and external data assists the user in identifying parameters for criteria relevant to procurement decisions, sourcing decisions and strategic sourcing in an enterprise regarding one or a plurality of items (col. 8, lines 52-64; col. 9, lines 3-25; Parameters, such as leadtimes, are used as relevant criteria to the decision making related to the managerial plan.).

As per claim 160, Fox et al. teaches identifying one or more conditions related to the at least one item or related to procurement, sourcing, and strategic sourcing in the enterprise of the at least one item (col. 11, lines 51-58; col. 14, lines 52-63; A correlation processor is used to identify conditions (i.e., change in weather, sales, etc.) associated with deweatherized data) and the ability of the user to set user defined information (See col. 6, lines 10-19 and 33-40; Figure 5; claim 12). However, Fox et al. does not expressly disclose identifying and establishing rules, notices, and alerts, which are customized according to user-defined criteria.

Fox et al. disclose creating models related for advertising campaigns for users to indicate favorable or unfavorable degrees (i.e., thresholds). It is old and well known to allow a user to set conditions and aspects associated with a model. Further, it is old and well known in workflow management processes to alert users of certain conditions that are relevant to them in order to make the user aware of certain conditions happening during a workflow process so that the user can take certain actions at that time if necessary. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include user-defined conditions in Fox et al. in order to more accurately provide desired information to the user by using user-specified aspects.

As per claim 161, the claim recited that an alert may be specified. Therefore, this limitation does not occur as the scope of the claim allows the alert to not be specified.

As per claim 162, Fox et al. discloses wherein the step of discovering internal and external data includes extraction, transformation and loading of data, and also scanning of data that has been aggregated across a single business unit or across multiple business units of the same enterprise (col. 6, lines 10-19 and 33-40; Figure 5; A computer system uses internal and external data to determine an impact on the retail industry. The internal and external data is used to revise a managerial plan (i.e., make strategic decisions).

However, Fox et al. does not expressly disclose conducting of real-time searching or customizing of real-time alerts and news feeds.

Fox et al. disclose creating models related for advertising campaigns for users by collecting data such as external and internal data. It is old and well known in businesses to perform the functions of real-time searching, customized real-time alerting, and news feeds based on data currently collected. It would have been obvious to one of ordinary skill in the art at the time of the invention to include these data-based features in the system of Fox et al. in order to more accurately plan and manage the strategic decisions of the company based on the most current information.

As per claims 163 and 165, Fox et al. teaches analyzing the discovered internal and external data (col. 12, lines 1-9; col. 14, lines 53-56; Analysis of the potential impact is made). However, Fox et al. does not disclose that the analyzing includes quantitative and qualitative analysis on the discovered data or risk analysis, data visualization, and/or 'what if, scenarios.

Fox et al. discloses analyzing data to generate reports and understand situations, such as potential impact. Examiner takes official notice that quantitative and qualitative analysis, risk analysis, data visualization, and/or 'what if, scenarios are old and well known analysis methods. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include these types of analysis in order to increase the accuracy of understanding the data.

As per claim 174, Fox et al. discloses running the model weekly and monthly and using past data (See column 6). However, Fox et al. does not explicitly reintegrating the internal and external data into the data mart after each action is processed, wherein the data are continuously incorporated into the data mart automatically or at predetermined or other intervals.

Fox et al. discloses a modeling system that uses external and internal data and makes forecasts on weekly and monthly increments using past data. It is old and well known in the forecasting arts to update your data over-time in order to make more accurate projections. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to update and integrate data in the system of Fox et al. in order to more accurately make predictions.

As per claim 158, 169, 170, and 171-173, examiner notes that claim 140 recites "providing to a user [...] one or more computer-initiated options for fully or partially executing an action". Therefore, executing the action is not a positively recited step in the claim. Thus, claims 158, 169, and 171-173 fall outside the scope of the claims.

Claims 149, 151-152, 154-157, 159, 164, 166, 168, 175, and 179-184 recite limitations similar to those already rejected above and are therefore rejected on the same basis as claims 140-148 and 150 above.

As per claim 153, Fox et al. teaches the ability of the user to set user defined information (See col. 6, lines 10-19 and 33-40; Figure 5; claim 12). However, Fox et al. does not expressly disclose that the conditions are user defined.

Fox et al. disclose creating models related for advertising campaigns for users to indicate favorable or unfavorable degrees (i.e., thresholds). It is old and well known to allow a user to set conditions and aspects associated with a model. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include user-defined conditions in Fox et al. in order to more accurately provide desired information to the user by using user-specified aspects.

As per claim 167, Fox et al. teaches recommending to the user one or more proposed actions based on the analysis of the discovered internal and external data (col. 8, lines 25-37; col. 18, lines 60-67; Figure 7; A revised managerial plan is generated in response to the analysis of the potential impact, where the revised managerial plan includes new/altered (i.e., recommended) actions to the original managerial plan. Examples of a managerial plan are product buying, product distribution and labor scheduling). Examiner points out that the claim recites that the one or more recommendations "enable the user to define priorities, set parameters, and optimize data outputs" or allow or facilitate to do these actions. The claim does not recite that these actions are actually performed, but rather the recommendation would allow such actions later (ie

outside the scope of the claims). The data taught by Fox et al. and discussed above would allow such actions to take place.

As per claims 176-178, these claims recite limitations that further limit the preamble of claim 140. Therefore, these claims are not a positively recited step in the claim. Thus, claims 176-178 fall outside the scope of the claims.

As per claim 158, 169, and 171-173, examiner notes that claim 140 recites "providing to a user […] one or more computer-initiated options for fully or partially executing an action". Therefore, executing the action is not a positively recited step in the claim. Thus, claims 158, 169, and 171-173 fall outside the scope of the claims.

As per claims 185-6, Fox et al. discloses that invocation of the one or more software modules occurs with or without instantiation (col. 6, lines 10-19 and 33-40; Figure 5 col. 11, lines 51-58; col. 14, lines 52-63). However, Fox et al. does not expressly disclose alerts or that this is also accompanied by a representation of an alert or plurality of alerts that caused the module to be invoked and the steps that caused the module to be invoked.

Examiner takes Official Notice that it is old and well known in to alert users of certain conditions (and show them these conditions and how they occurred) in order to make the user aware of certain conditions happening during a workflow process so that the user can take certain actions at that time if necessary. It would have been obvious at the time of the invention to a person of ordinary skill in the art to modify Fox et al. to alert a user of a satisfied condition so that the user is made aware of a certain threshold being crossed and is able to take certain actions regarding the condition, if necessary, thereby providing the user with instant feedback regarding the status of things.

Response to Arguments

9.   Applicant's arguments with regards to the 35 USC 103 rejection of claim 140 based on

Fox et al. (U.S. 5,491,629) have been fully considered, but they are not persuasive. In the

remarks, Applicant argues that Fox fails to teach or suggest "providing to the user, via one or

more of the software modules, one or more computer-initiated options for fully or partially

executing an action in the one or more proposed actions" as recited in claim 140 and that Fox

merely disclose the general concept of communicatively coupling two or more computers for the

purpose of transferring data therebetween.

   In response to this argument, examiner respectfully disagrees. Fox et al. in col. 10, line 56-

col. 11, line 4; Figure 6, teaches executing different portions of the managerial plan such as the

buying, distributing or advertising. Thus, as the computer provides the user with the information

and allows the user to execute portions of a plan, Fox et al. teaches providing the user with

options which may be fully or partially executed.

10.   Applicant's arguments with regards to the dependent claims 149 and 15-186 have been

fully considered. Applicant argues that while Examiner states that claims 149 and 151-186 are

similar to claims 140-148 and 150 and thus rejected using the same basis as set forth with respect

to claims 140-148 and 150, claims 149 and 151-186 recite numerous features that are not recited

in claims 140-148 and 150.

   With regards to claims 149, 151-159, 163-167, and 172-185, Applicant's arguments fail

to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims

define a patentable invention without specifically pointing out how the language of the claims

patentably distinguishes them from the references. Examiner notes that new grounds of rejection

with respect to some of the rejections of these claims have been set forth above.

Applicant's arguments with regards to claims 160-162, 169-171, and 186 have been fully

considered and are persuasive. Therefore, new grounds of rejection have been set forth above.

With regards to 168, Examiner respectfully disagrees. Claim 168 recites "wherein the

step of analyzing the discovered internal and external data includes selecting parameters from the

one or more user defined parameters, selecting values, [...], **and/or** prioritizing weights or

relative weights". Thus, in the broadest reasonable interpretation, the claim recites wherein the

step of analyzing the discovered internal and external data includes selecting parameters from the

one or more user defined parameters. Claim 140 recites analyzing the discovered internal and

external data, where previously in the claim the internal and external data was discovered based

on user-defined parameters. Thus, the user parameters are utilized in the analyzing step, and thus

the rejection of claim 140 addresses this limitation.

Conclusion

Any inquiry concerning this communication should be directed to Beth V. Boswell at

telephone number (571)272-6737.

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623